The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WFS PHARMAGREEN, INC., Plaintiff, v. CANNA-PET, LLC, and DANIEL K. GOLDFARB, Defendants.	No. 2:16-cv-00491-RSL
DANIEL K. GOLDFARB and CANNA-PET, LLC, Counterclaim Plaintiffs, v. WFS PHARMAGREEN, INC., Counterclaim Defendant.	BRANDON AND COPAS' ANSWER TO THIRD- PARTY COMPLAINT
DANIEL K. GOLDFARB and CANNA-PET, LLC, Third-Party Plaintiffs, v. CANNA COMPANION, LLC; CANNA COMPANION PRODUCTS, INC.; and SARAH BRANDON and GREG COPAS, wife and husband and the marital community composed therein; and ROBERT STEWART and JANE DOE STEWART, husband and wife and the marital community composed therein, Third-Party Defendants.	

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Third-Party Defendants, Sarah Brandon and Greg Copas (referred to collectively as "Brandon"), answer Third-Party Plaintiffs' Third-Party Complaint, as follows:

PARTIES

1. Brandon admits that Counterclaim Plaintiff Daniel K. Goldfarb ("Goldfarb") is a Washington resident. Brandon lacks sufficient knowledge of the truth or falsity of the remaining allegations in Paragraph 1 of the Third-Party Complaint and therefore denies the same.

2. Brandon admits the allegations contained in Paragraph 2, of the Third-Party Complaint.

3. Brandon admits the allegations contained in Paragraph 3, of the Third-Party Complaint.

4. Brandon admits that Canna Companion Products, Incorporated, is a corporation duly organized under the laws of the State of Washington, and that it licenses the CANNA COMPANION trademark from Canna Companion, LLC. Except as expressly admitted, Brandon denies the remaining allegations in Paragraph 4, of the Third-Party Complaint.

5. Sarah Brandon and Greg Copas admit that they are married persons. Except as expressly admitted, Brandon denies the remaining allegations set forth in Paragraph 5, of the Third-Party Complaint.

6. Brandon lacks sufficient knowledge of the truth or falsity of the allegations in Paragraph 6, of the Third-Party Complaint and therefore denies the same.

7. Brandon denies each and every allegation contained in Paragraph 7, of the Third-Party Complaint.

VENUE AND JURISDICTION

8. Brandon admits the allegations contained in Paragraph 8, of the Third-Party Complaint.

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9. Sarah Brandon and Greg Copas admit that this Court has personal jurisdiction over them. Except as expressly admitted, Brandon denies the remaining allegations set forth in Paragraph 9, of the Third-Party Complaint.

10. Brandon admits that venue is proper in the Western District of Washington. Except as expressly admitted, Brandon denies the remaining allegations set forth in Paragraph 10, of the Third-Party Complaint.

FACTS

11. Brandon lacks sufficient knowledge of the truth or falsity of the allegations in Paragraph 11, of the Third-Party Complaint and therefore denies the same.

12. The referenced documents on file with the U.S. Patent and Trademark Office ("USPTO") speak for themselves. Brandon lacks sufficient knowledge of the truth or falsity of the allegations in Paragraph 12, of the Third-Party Complaint and therefore denies the same.

13. Brandon admits the allegations contained in Paragraph 13, of the Third-Party Complaint.

14. The referenced documents on file with the USPTO speak for themselves. Except as expressly admitted, Brandon denies the remaining allegations set forth in Paragraph 14, of the Third-Party Complaint.

15. Brandon admits that Canna Companion and CC Products currently use the CANNA COMPANION trademark for products in competition with the Third-Party Plaintiffs. Except as expressly admitted, Brandon denies the remaining allegations set forth in Paragraph 15, of the Third-Party Complaint.

16. Brandon lacks sufficient knowledge of the truth or falsity of the allegations in Paragraph 16, of the Third-Party Complaint and therefore denies the same.

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17. Brandon admits that Canna Companion's products are in direct competition with Canna-Pet's products. Except as expressly admitted, Brandon denies the remaining allegations in Paragraph 17, of the Third-Party Complaint.

18. Brandon lacks sufficient knowledge of the truth or falsity of the allegations in Paragraph 18, of the Third-Party Complaint and therefore denies the same.

19. Brandon denies each and every allegation contained in Paragraph 19, of the Third-Party Complaint.

20. The registration documents of CANNA-PET on file with the USPTO speak for themselves. Except as expressly admitted, Brandon denies the remaining allegations contained in Paragraph 20, of the Third-Party Complaint.

21. The referenced documents on file with the TTAB speak for themselves. Except as expressly admitted, Brandon denies the remaining allegations contained in Paragraph 21, of the Third-Party Complaint.

22. The documents referenced in Paragraph 22, on file with the TTAB speak for themselves. Except as expressly admitted, Brandon denies the remaining allegations contained in Paragraph 22, of the Third-Party Complaint.

23. The assignment document for CANNA-PET on file with the USPTO speaks for itself. Except as expressly admitted, Brandon denies the remaining allegations contained in Paragraph 23, of the Third-Party Complaint.

24. Brandon denies each and every allegation contained in Paragraph 24, of the Third-Party Complaint.

25. The documents referenced in Paragraph 25, on file with the TTAB, speak for themselves.

26. The documents referenced in Paragraph 26, on file with the TTAB speak for themselves.

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CLAIMS

Count 1 – Infringement of a Registered Trademark

27. Brandon restates their answers to Paragraphs 1 through 26, of the Third-Party Complaint, as though fully set forth herein.

28. Brandon denies each and every allegation contained in Paragraph 28, of the Third-Party Complaint.

29. Brandon denies each and every allegation contained in Paragraph 29, of the Third-Party Complaint.

30. Brandon denies each and every allegation contained in Paragraph 30, of the Third-Party Complaint.

31. Brandon denies each and every allegation contained in Paragraph 31, of the Third-Party Complaint.

32. Brandon denies each and every allegation contained in Paragraph 32, of the Third-Party Complaint.

33. Brandon denies each and every allegation contained in Paragraph 33, of the Third-Party Complaint.

34. Brandon denies each and every allegation contained in Paragraph 34, of the Third-Party Complaint.

35. Brandon denies each and every allegation contained in Paragraph 35, of the Third-Party Complaint.

Count 2 – False Designation of Origin

36. Brandon restates their answers to Paragraphs 1 through 35, of the Third-Party Complaint, as though fully set forth herein.

37. Brandon denies each and every allegation contained in Paragraph 37, of the Third-Party Complaint.

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38. Brandon denies each and every allegation contained in Paragraph 38, of the Third-Party Complaint.

39. Brandon denies each and every allegation contained in Paragraph 39, of the Third-Party Complaint.

40. Brandon denies each and every allegation contained in Paragraph 40, of the Third-Party Complaint.

41. Brandon denies each and every allegation contained in Paragraph 41, of the Third-Party Complaint.

Count 3 – Unfair Competition under Washington Law

42. Brandon restates its answers to Paragraphs 1 through 41, of the Third-Party Complaint, as though fully set forth herein.

43. Brandon denies each and every allegation contained in Paragraph 43, of the Third-Party Complaint.

44. Brandon denies each and every allegation contained in Paragraph 44, of the Third-Party Complaint.

45. Brandon denies each and every allegation contained in Paragraph 45, of the Third-Party Complaint.

Count 4 – Determination of Right to Registration

The allegations and claims set forth in Count 4, of the Third-Party Complaint, are expressly directed against a Third-Party other than Brandon. Brandon is therefore not required to answer Count 4.

Count 5 – Violation of Anticybersquatting Consumer Protection Act

The allegations and claims set forth in Count 5, of the Third-Party Complaint, are expressly directed against Third-Party Defendant, Sarah Brandon, only. Third-Party Defendant, Greg Copas, is therefore not required to answer Count 5.

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53. Sarah Brandon restates her answers to Paragraphs 1 through 46, of the Third-Party Complaint, as though fully set forth herein.

54. Sarah Brandon denies each and every allegation contained in Paragraph 54, of the Third-Party Complaint.

55. Sarah Brandon denies each and every allegation contained in Paragraph 55, of the Third-Party Complaint.

56. Sarah Brandon admits that "cannaforpets" is not her name. Except as expressly admitted, Brandon denies the remaining allegations contained in Paragraph 56, of the Third-Party Complaint.

57. Sarah Brandon denies each and every allegation contained in Paragraph 57, of the Third-Party Complaint.

58. Sarah Brandon denies each and every allegation contained in Paragraph 58, of the Third-Party Complaint.

59. Sarah Brandon denies each and every allegation contained in Paragraph 59, of the Third-Party Complaint.

60. Sarah Brandon denies each and every allegation contained in Paragraph 60, of the Third-Party Complaint.

61. Sarah Brandon denies each and every allegation contained in Paragraph 61, of the Third-Party Complaint.

FIRST AFFIRMATIVE DEFENSE

Goldfarb and Canna-Pet fail to state a claim upon which relieve may be granted.

SECOND AFFIRMATIVE DEFENSE

Goldfarb and Canna-Pet used unlawful marijuana and unlawfully acquired hemp in the products being sold under the CANNA-PET mark. Goldfarb and Canna-Pet have unclean hands, and seek to take advantage of their wrongdoing.

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THIRD AFFIRMATIVE DEFENSE

Goldfarb and Canna-Pet were using unlawful marijuana and unlawfully acquired hemp in the products that were being sold under the CANNA-PET mark when WFS first used the CANNA-COMPANION mark in interstate commerce. Therefore, Goldfarb and Canna-Pet's counterclaims fail because the rights of WFS in and to the CANNA COMPANION mark are prior and superior to those of Goldfarb and Canna-Pet in the CANNA-PET mark.

FOURTH AFFIRMATIVE DEFENSE

Goldfarb and Canna-Pet have not been damaged, even if all of their counterclaims are proven at trial.

FIFTH AFFIRMATIVE DEFENSE

Goldfarb's and Canna-Pet's actions or non-actions caused the wrongs they allege.

SIXTH AFFIRMATIVE DEFENSE

Goldfarb lacks standing to bring his Counterclaims because he never had a valid ownership interest in or to, or right to use, the CANNA-PET mark on which his Counterclaims are based.

SEVENTH AFFIRMATIVE DEFENSE

The CANNA-PET mark is diluted and weak; therefore, Canna-Pet's (and Goldfarb's, if any) purported rights extend no further than to the specific mark that they allege they own, which is not confusingly similar to the CANNA COMPANION mark in terms of connotation, appearance and/or pronunciation.

EIGHTH AFFIRMATIVE DEFENSE

The federal trademark registration of CANNA-PET (Registration No. 4,706,460), on which the Counterclaims are based, is invalid.

NINTH AFFIRMATIVE DEFENSE

The CANNA COMPANION mark is not confusingly similar to the CANNA-PET mark.

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PRAYER FOR RELIEF

Third-Party Defendants, Sarah Brandon and Greg Copas, pray as follows:

A. For judgment dismissing Third-Party Plaintiffs' Complaint;

B. For costs, disbursements and attorneys' fees as provided by statute; and

C. For such other relief as this Court deems just and equitable.

DATED this 8th day of June, 2016.

VANDEBERG JOHNSON & GANDARA, LLP

By ______________________
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David K. Eckberg, WSBA #16273
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